



**STATE OF TENNESSEE
DEPARTMENT OF HEALTH
OFFICE OF HEALTH RELATED BOARDS
BOARD OF PHARMACY**
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HIPAA and the Board of Pharmacy

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 requires that pharmacists and pharmacies, among other covered entities, provide certain privacy protections for a patient's health information. However, the Tennessee Board of Pharmacy is not an entity covered by HIPAA, which means that the Tennessee Board of Pharmacy investigators, without a written authorization from the patient, can inspect and review any pharmacy documents containing patient health information relative to a routine inspection or an investigation of possible violations of pharmacy law and rules. Therefore, pharmacists and pharmacies are permitted to release patient protected health information to the Board of Pharmacy. 45 CFR §164.512(d) of HIPAA specifically states that pharmacists and pharmacies "**may disclose protected health information to a health oversight agency for oversight activities authorized by law**, including audits; civil administrative, or criminal investigations; inspections; licensure or disciplinary actions...", which includes the Tennessee Board of Pharmacy. The Tennessee Board of Pharmacy is authorized by Tennessee Code Annotated §63 -10-304(a) and 63-10-307(a) to inspect pharmacy practice sites and to conduct investigations for possible violations of applicable pharmacy law and rules. The Board of Pharmacy may also disclose the information that it receives through an investigation or a site inspection to criminal agencies and any health-related boards because they are considered "health oversight agencies" under HIPAA.

Tennessee Code Annotated §53-11-406 provides that "(a)(1) Prescriptions, orders, and records" regarding controlled substances "shall be open for inspection only to federal, state, county, and municipal officers whose duty it is to enforce the laws or regulations of this state or of the United States relating to controlled substances or narcotic drugs." The provisions of HIPAA **do not** supersede or override the requirements of this law.

Practical Applications of HIPAA

Each pharmacy through its pharmacist in charge should develop policies and procedures to become HIPAA compliant, in addition to developing a patient authorization form to release patient health information. The Tennessee Board of Pharmacy recommends that pharmacies take steps to ensure that all records containing protected health information, including prescription containers, prescription labels, receipts, notes, telephone messages, and other sensitive documents, be disposed of in such a manner as to maintain patient confidentiality. The following are practical suggestions that may be included in the pharmacy's policies and procedures:

- (1). Shred all paper documents and black out information on discarded containers prior to placing them in the garbage. Hold garbage and trash in a secure area until the disposal firm can pick up the trash for incineration or other methods of disposal.
- (2). Give old prescription containers back to the patient;
- (3). Be certain to remove all protected health information from prescription containers returned to stock from the will-call bin that were not picked up by the patient.

Answers to some questions regarding the application of HIPAA can be viewed at the following web site, <https://www.hhs.gov/hipaa/index.html>. HIPAA is administrated by the Office for Civil Rights, U.S. Department of Health & Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201. Toll Free Call Center 1-800-368-1019